

REMARKS/ARGUMENTS

The Examiner's attention to the present application is noted with appreciation.

In paragraph 1 of the Office Action dated October 1, 2003, the Examiner did not accept the drawings because the changes were not marked in red or otherwise highlighted pursuant to M.P.E.P. § 608.02(p). The replacement sheet now clearly shows the changes (in red) for reference numbers **40** (Fig. 1b) and **54** (Fig. 4a).

In paragraphs 2 and 3 of the Office Action, the Examiner rejected claims 1-15 under 35 U.S.C. 102(b) as being anticipated by Rosenfeld (U.S. Patent No. 4,061,910). Applicant's amended claim 1 reads, "A lighted accessory for a wearer comprising: at least one decorative accessory element comprising at least one holding element comprising an end for receipt of a disposable and replaceable chemiluminescent article and a main body; at least one chemiluminescent article disposable and replaceable by the wearer in said at least one holding element via said end; and said main body comprising at least one opening in addition to said end directly displaying said chemiluminescent article." In other words, in Applicant's invention, the end where the light stick is inserted into the main body of the invention is not considered the display portion. The "main body" with "at least one opening in addition to said end directly displaying said chemiluminescent article" is key to the invention. The light stick shines through this opening or openings in the main body, providing a glowing effect in an accessory, such as fine jewelry. The prior art does not have this (see also new claim 32 for multiple openings in the main body).

Rosenfeld is directed to an article of chemiluminescent jewelry, preferably having a provision for separate compartments with replaceable chemiluminescent cartridges (Fig. 6). The Examiner correctly identifies reference numbers 73, 74, 75, 78 and column 10 lines 9-11 as referenced in Fig. 6 in this patent, and that the chemiluminescent article is replaced at the end and is displayed at the end. Rosenfeld has a "light transmitting" material (Fig. 6). Rosenfeld, however, does not disclose or teach a main body with one or more openings in the main body (in addition to the insertion end), to decoratively

and directly display the chemiluminescent article. Accordingly, it is believed that claims 1 and 32 are allowable over Rosenfeld.

Regarding claim 2, the Examiner stated that Rosenfeld discloses the decorative element comprising a reflective surface. Claim 2 has been amended to clarify that Applicant's invention has direct display of the chemiluminescent article (amendment to claim 1) and that claim 2 additionally has a reflective element. And, as discussed above, Rosenfeld does not meet the limitations of claim 1, as amended, namely openings in the main body, in addition to the end, for directly displaying the chemiluminescent article. Rosenfeld has a light transmitting material, but not a reflective material. Accordingly, it is believed that claim 2 is allowable over Rosenfeld.

Regarding claim 4, the Examiner stated that Rosenfeld discloses a reflective element comprising a finished surface that is polished. As stated above, Applicant's chemiluminescent article is directly seen and the reflective element is an addition to the direct display capabilities of the invention. Claim 4 has been amended, and new claims 33 through 37 (claim 33 – hammered surface; claim 34 – ribbed surface; claim 35 – paneled surface; claim 36 – polished surface; and claim 37 – slightly reflective surface) added for clarification. Rosenfeld does not have a reflective element, but rather has a light transmitting element. Further, Rosenfeld does not have any of the additional types of surfaces as claimed by Applicant. Accordingly, it is believed that claims 4 and 33 through 37 are allowable over Rosenfeld.

Regarding claims 5 and 6, the Examiner stated that Rosenfeld discloses a reflective element that is rectangular, and has a three-dimensional shape, respectively. Again, as stated above, Rosenfeld does not have a reflective element, but rather has a light transmitting element. Further, Applicant's reflective element is an additional component of the already direct display of the chemiluminescent article. Currently amended claims 5 and 6 and new claims 38 through 43 (claim 38 – circular shape; claim 39 – elliptical shape; claim 40 – triangular shape; claim 41 – rectangular shape; claim 42 – polygonal shape; claim 43 – irregular shape) clarify the additional features of Applicant's invention that are distinct from Rosenfeld, which has no such reflective element, let alone in such shapes. Accordingly, it is believed that claims 5, 6, and 38 through 43 are allowable over Rosenfeld.

Regarding claim 7, the Examiner stated that Rosenfeld discloses a holding element comprising a closing member, referencing number 62. Rosenfeld reference number 62 discloses a light transmitting surface and not a closing member. Rosenfeld, therefore, does not disclose a closing member.

Applicant's claim 7 teaches a closing member. In Fig. 6 of Rosenfeld, the "holding elements" are open 77, 78, 79 to replace the cartridge, and in Fig. 7 of Rosenfeld, the opening referenced as number 66 is a relief-valve to inject chemicals which are chemiluminescent. Accordingly, it is believed that claim 7 is allowable over Rosenfeld.

Regarding claim 8, the Examiner stated that Rosenfeld discloses a closing member comprising a cover, referencing 62. As discussed above, Rosenfeld 62 is not a closing member or a cover, but is rather the light transmitting surface. Newly amended claim 8 and new claims 44 through 46 (claim 44 – a ball; claim 45 – a bead; claim 46 – a cover) teach that the closing member may decoratively comprise different items. As stated above, Rosenfeld does not disclose a closing member, let alone a decorative closing member, and particularly not the closing members set forth in these claims. Accordingly, it is believed that claims 8, and 44 through 46 are allowable over Rosenfeld.

Regarding claim 15, the Examiner stated that Rosenfeld discloses the accessory as a ring. Currently amended claim 15 and new claims 48 and 49 disclose the accessory as an earring (claim 15), pendant (claim 48) and brooch (claim 49). Rosenfeld does not disclose an earring, pendant or brooch. Accordingly, it is believed that claim 15, 47 and 48 are allowable over Rosenfeld.

Regarding claims 3, 9-14, and new claims 47 and 50, these claims are dependent on claim 1, which we believe to be allowable. Accordingly, these claims are also believed to be allowable over Rosenfeld.

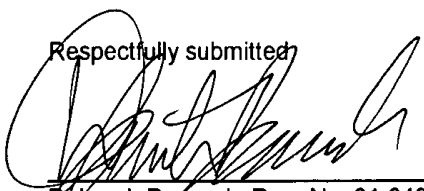
In paragraph 4 of the Office Action, the Examiner rejected claim 31 under 35 U.S.C. 103(a) as being unpatentable over Rosenfeld (U.S. Patent No. 4,061,910) in view of Tedham et al. (U.S. Patent 6,431,724). The Examiner stated that it would have been obvious to one of ordinary skill in the art to use a satchel of Tedham et al. with the apparatus of Rosenfeld for carrying articles in a lighted bag.

Tedham, et al. discloses a bag with a glow stick incorporated into the hem of the bag. The glow stick shines through a "frosted or translucent plastic material". As discussed above, Rosenfeld discloses articles of jewelry with an end opening for a replaceable chemiluminescent article, and only the end opening directly displays the chemiluminescent article. Tedham et al. is similar in that there is no direct display of the chemiluminescent material except perhaps at the end opening. Neither reference has direct display of the chemiluminescent stick via openings in the main body, as claimed by Applicant. Accordingly, even if Rosenfeld and Tedham et al. were combined, it would not result in Applicant's invention. Further, one with ordinary skill in the art at the time the invention was made would not have combined the inventions of Rosenfeld and Tedham et al. as Rosenfeld has complex light stick jewelry and Tedham et al. is a simple hem opening in which a light stick is inserted. No matter what, either individually or in combination, the result would not be a direct display of a chemiluminescent stick in the main body. Accordingly, it is believed that claim 31 is allowable over Rosenfeld in view of Tedham, et al.

In summary, it is believed that all of the claims currently in the application are allowable over Rosenfeld and the other art cited by the Examiner. It is believed that the case is now in condition for allowance and same is respectfully requested.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

A check for additional claim fees is attached. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. A duplicate of this paper is enclosed for accounting purposes.

Respectfully submitted,

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Application No. 09/992,131

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